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PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
**RECEIVED**

IN THE APPLICATION OF: MAR 18 2004

**BARRY D. OLSON ET. AL.** OFFICE OF PETITIONS CASE NO.: CN0102USNA

APPLICATION NO.: 09/923,697

GROUP ART UNIT: 1772

FILED: AUGUST 06, 2001

EXAMINER: CATHERINE A. SIMONE

FOR: **DECORATIVE MATERIALS HAVING GEOMETRIC PATTERNS AND  
PROCESS FOR PREPARING THE SAME**

**ARGUMENT**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Reconsideration is respectfully requested of the Office communication dated August 6, 2003. Although rejections under 35 USC 112 (second paragraph), 35 USC 102(e) and 35 USC 103(a) are set forth in the Office communication, no claim has been amended or cancelled. The present claims conform to the requirement of 35 USC 112; furthermore the prior art rejections under 35 USC 102 and 35 USC 103 are not applicable. Claims 1 to 9 and 12 remain under consideration.

### **DRAWING REQUIREMENT**

Paragraph 2 of the Office communication sets forth a requirement to furnish a drawing under 37 CFR 1.81. This requirement is respectfully traversed since the present claims under prosecution are directed to a decorative material. Due to a restriction requirement, the method claims are no longer under consideration in this patent application.

Solely to conform to the Office requirement, attached is a flow diagram of the process of making the decorative article. This drawing is subject to the Examiner's approval for entry into the present patent application.

Also, in the event the requirement for a drawing is maintained, it will be necessary to provide a description of the drawing. The following text is prepared for insertion into the patent application subject to the Examiner's approval.

### **DESCRIPTION OF THE DRAWINGS**

Fig. 1 represents a flow diagram of the process wherein the final article has different cross sections of a geometric pattern.

In the flow diagram two flowable thermosetting compositions are combined to create a three-dimensional pattern in a solidified article. The solidified article is divided resulting in different cross sections of a geometric shape. The cross sections are fused resulting in the final article.

No new matter is present in the above text.

**FURTHER ATTACHMENT  
IN COLOR**

An attachment in color accompanies this response which attachment portrays one embodiment of the present invention in formation of stripes. The color of the various stripes illustrates the formation of three-dimensional layers. The stripes form a three-dimensional geometric pattern. The layers are chopped in the attachment which represents the step of dividing as set forth in the patent application. The attachment sets forth "mix and mold into sample plaque" with a final decorative article portrayed.

**REJECTION UNDER 35 USC 112  
(Second Paragraph)**

Claims 1 to 9 and 12, all claims under prosecution, stand rejected under 35 USC 112, second paragraph in recitation of:

"divided into individual discrete portions resulting in cross sections of the one geometric shape having varying surface appearances with the geometric patterns extending inwardly from a surface of the material".

In response to this Office position, the wording is considered clear and concise and fully complies with all requirements of 35 USC 112.

As previously set forth a color attachment provides a pictorial understanding in color of a geometric pattern in the form of stripes.

However, turning to the wording, below is a side-by-side comparison of the clear meaning of the employed language.

**CLAIM WORDING**

divided into individual  
discrete portions

resulting in cross sections

**CLEAR MEANING**

Page 6, lines 31 to 35  
sets forth dividing  
can be by "cutting,  
chopping, tearing,  
extruding or grinding  
(the color attachment  
portrays chopping")

cross section is defined  
as "a section made by  
a plane cutting anything  
transversely"\*

of the one geometric shape

“the one” – references  
a single geometric shape

“geometric” means  
“resembling or employing  
the single rectilinear or  
curvilinear lines or  
figures used in geometry”\*

having varying surface  
appearances

“the one geometric  
shape” has different  
appearances on a  
surface of the decorative  
material

with the geometric patterns  
extending inwardly from  
a surface of the material

geometric patterns  
are not only present  
on the surface of the  
decorative material  
but extend into the  
interior, i.e. they are  
three-dimensional

\*Reference is to The Random House Dictionary of the English Language,  
Copyright 1969.

The above comparison directly provides reasons why reconsideration and withdrawal  
of the rejection under 35 USC 112 is proper.

Claims 1, 2, 4, 6-9 and 12 stand rejected under 35 USC 102(e) as being anticipated by  
Stecker USP 6,150,009. The Office rejection references Fig. 2E, #20 and Fig. 3, #42 as well  
as column 7, lines 29-34 and column 9, lines 10-14 of this publication.

Initially, in response and traversal to this rejection, column 7, lines 29-34 and column  
9, lines 10-14 are reproduced as follows:

In FIG. 2C, a first curable resin 16 has been  
applied on top of the substrate surface 12 and release  
material 14. In FIG. 2D, a second curable resin has been  
applied on top of the first curable resin. Because the two  
resins are in an “uncured” state, they commingle to form  
blended layer of resin 20, as illustrated in FIG. 2E.

...

2. A decorative article of manufacture according to  
claim 1 further comprising a second resin applied to the

first resin such that the second resin is commingled with the first resin, the second resin having a second color different from the first color.

In traversal of this rejection, applicants fail to understand how Stecker has any applicability to the present invention and claims directed thereto. The quoted sections of the Office rejection are not understood as a basis for any anticipation (or obviousness) for the claims under prosecution.

For purposes of illustration in distinguishing over Stecker, claim 1, the sole independent claim under prosecution, requires three-dimensional patterns. In other words the patterns are not merely on the surface of the material. Surface patterns are only two-dimensional. Additionally, claim 1 requires the geometric patterns to include one geometric shape (an example is stripes as in claim 2) with the shape divided (such as the stripes chopped into pieces) resulting in cross sections of "the one" geometric shape having varying surface appearances (when the chopped stripes are recombined, the surface appearance such as the stripes extend in different directions). Any applicability of Stecker to this requirement is not present. Accordingly, the rejection must fail.

All dependent claims rejected under 35 USC 103(a) likewise represent a patentable advance in the art for the same reasons as independent claim 1.

Claims 3 and 5 stand rejected under 35 USC 103(a) based on Stecker USP 6,150,009. The reasons why Stecker is not applicable to independent claim 1 is likewise pertinent to claims 3 and 5.

Again, it is pointed out that it is not understood how this publication has any relevance. The geometric pattern of the present invention is not only present on a surface but also extends inwardly. The geometric pattern is formed from a geometric shape "divided into individual discrete portions resulting in cross sections of the one geometric shape having varying surface appearances".

These features are absent in Stecker and represent an unobvious modification thereof.

#### **OFFICE INTERVIEW**

Applicants consider that an Office interview (either by telephone or in person) would be beneficial to clarifying issues in the present patent application.

The main issue seems somewhat unique. The Office position is the applicability of complete anticipation rejection under 35 USC 102(e).

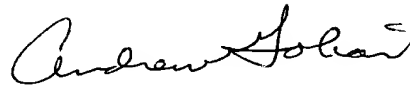
In response applicants' position is the cited Stecker patent has no applicability as an anticipatory (or obviousness) publication. It would seem with such diverse positions that clarification is essential in the record of the patent application.

Accordingly, in the event the Office position will be maintained, an Office interview is requested.

Withdrawal of the rejection of all claims is considered proper.

A notice of allowance is solicited.

Respectfully submitted,



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Dated: March 10, 2004

Enclosures (2) – Figure 1  
Color Figure